



# GMS Flash Alert

## Immigration Edition

2021-026 | January 15, 2021

# United States - New Pre-Departure Requirement for Air Travel to the U.S.

In response to the global health emergency, a new Order has been issued by the U.S. Centers for Disease Control and Prevention (CDC). The Order requires all air travelers bound for the United States to either test negative for COVID-19 within three (3) calendar days of their flight to the U.S., or provide documentation confirming recovery from COVID-19.<sup>1</sup> The Order takes effect on January 26, 2021, and generally covers all air passengers two (2) years of age and above, including U.S. citizens and permanent residents. It does not supersede the other COVID-related U.S. travel restrictions currently in effect.<sup>2</sup>

The CDC's Order will apply until December 31, 2021, unless the Secretary of Health and Human Services determines that the health emergency related to COVID-19 is over before this date, or the CDC takes action to rescind or revise the Order before the end of the 2021 calendar year.<sup>3</sup>

---

## WHY THIS MATTERS

The new requirement applies to travelers flying to the U.S. by either commercial airline or private charter, as well as those transiting through the U.S. en route to another country. Employees planning to fly into the U.S., including U.S. citizens and permanent residents, must soon be prepared to provide either evidence of a negative COVID-19 test within three (3) days of air travel, or documentation of recovery from COVID-19. To avoid delays that may come with additional steps and procedures, those with inbound-U.S. flights scheduled on or after January 26, 2021, as well as those currently in the U.S. who are planning to travel abroad, should consider how they will comply with the CDC's Order.

It is prudent to limit business travels to the U.S. to avoid complications and the possibility of not being able to board an inbound flight, as the COVID-19 pandemic and its impact on U.S. entry remain fluid. For those currently in the U.S., it is advisable to limit travel outside the U.S., since there may be additional requirements imposed with little to no notice that would further restrict the ability to return to the United States.

## New Rules and Procedures

On January 12, 2021, the CDC ordered that effective January 26, 2021, all airline passengers traveling to the U.S. from abroad will only be permitted to board their flights if they have received a negative COVID test result within three (3) calendar days of departure, or can provide documentation of recovery from COVID-19 and clearance for travel. As noted earlier, this applies to travelers flying to the U.S. whether by commercial airline or private charter, as well as to those connecting through the U.S. en route to another country.

Under the new Order, travelers relying on a negative test result to board a plane bound for the U.S. must specifically have undergone a viral COVID-19 test (i.e., a nucleic-acid amplification test or an antigen test). Travelers who cannot provide a negative test result must present documentation of a positive viral test result from within the prior ninety (90) days, along with a letter from a licensed health-care provider or public health official stating that they have been cleared for travel. The CDC states that the "Documentation of Recovery" option is being provided because the agency does not recommend re-testing for COVID-19 within three (3) months after the date of symptoms onset or, if the individual was asymptomatic, the date of diagnosis.

### Documentation, Airlines' Role, and Potential Penalties

All travelers must present the required documentation and submit a passenger attestation before boarding their flights. Pursuant to the Order, airlines are to deny boarding for any travelers who do not provide the required documentation or attestation.<sup>4</sup> Airlines are required to retain passenger attestations for two (2) years and to help ensure that all passengers meet CDC requirements for boarding.

Both individual passengers and airlines are subject to criminal penalties for noncompliance with the CDC's Order.

## Exemptions

The CDC's Order exempts children under the age of two (2), as well as:

- Crew members, provided that they follow industry-standard protocols for COVID-19 prevention;
- Airlines transporting passengers with COVID-19 pursuant to CDC authorization and guidance;
- Federal law enforcement personnel while on official duty and carrying out law enforcement functions;
- Members of the U.S. military when traveling under competent orders; and
- Airlines or other aircraft operators granted specific waivers from the application of the Order based on the CDC's determination that a foreign country lacks available COVID-19 testing capacity.

Please note that the CDC's Order applies to all non-exempt air passengers traveling into the U.S. regardless of nationality, including U.S. citizens and permanent residents.

## COVID-Related U.S. Travel Restrictions Continue to Apply

At this time, the regional COVID-19 travel restrictions remain in place for foreign nationals who have been physically present in the following countries within fourteen (14) days of their intended arrival into the United States: Brazil, People's Republic of China Iran, Ireland, countries in the European Union's Schengen Area, and the United Kingdom.<sup>5</sup>

The temporary suspension of entry for certain nonimmigrants and immigrants to the U.S., which is currently in effect through March 31, 2021, also continues.<sup>6</sup>

Travelers should also continuously check any state or local requirements that will apply once they arrive at their final destination in the United States.

---

## KPMG NOTE

KPMG LLP Law in Canada is tracking this matter closely. We will endeavor to keep readers of *GMS Flash Alert* posted on any important developments as and when they occur.

Employees and travelers who have concerns about their upcoming travels to the U.S. are encouraged to contact their travel agent and local qualified immigration counsel or the team with KPMG Law LLP (see the Contact Us section) for further guidance.

---

## FOOTNOTES:

1 To review the Centers for Disease Control and Prevention (CDC) Order issued on January 12, 2021, [click here](#). See this [Frequently Asked Questions](#) page from the CDC for additional details on the Order.

2 For prior coverage on the Trump Administration's April 22, 2020 entry suspension for certain immigrants and June 22, 2020 entry suspension for certain nonimmigrants, read the following issues of *GMS Flash Alert*: [2021-006](#) (January 5, 2021), [2020-460](#) (November 17, 2020), and [2020-159](#) (April 8, 2020). For information on the travel restriction from Brazil to the United States, read the following issue of *GMS Flash Alert*: [2020-251](#) (May 27, 2020). On European countries to the United States, read the following issues of *GMS Flash Alert*: [2020-059](#) (March 15, 2020) and [2020-055](#) (March 12, 2020). To review the presidential proclamation issued on March 11, 2020, restricting entry of travelers from the European Union's Schengen Area, the United Kingdom, Ireland, People's Republic of China, and Iran, [click here](#).

3 *Supra* note 1.

4 For a copy of the passenger attestation document, [click here](#).

5 *Supra* note 2.

6 *Supra* note 2.

\* \* \* \*

## Contact us

For additional information or assistance, please contact your local GMS or People Services professional\* or one of the following professionals with the KPMG International member firm in Canada:



**Sylvia Yong**  
**Associate Attorney**  
**U.S. Immigration**  
KPMG Law LLP – Tax + Immigration,  
Canada  
Tel. +1-416-943-7894  
[sylviayong@kpmg.ca](mailto:sylviayong@kpmg.ca)



**Elizabeth (Beth) Nanton**  
**Partner**  
**U.S. Immigration Practice Leader**  
KPMG Law LLP – Tax + Immigration,  
Canada  
Tel. +1-604-691-3316  
[bnanton@kpmg.ca](mailto:bnanton@kpmg.ca)

*\* Please note the KPMG International member firm in the United States does not provide immigration or labour law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.*

**The information contained in this newsletter was submitted by the KPMG International member firm in Canada.**

© 2021 KPMG Law LLP, a tax and immigration law firm affiliated with KPMG LLP, each of which is a Canadian limited liability partnership. KPMG LLP is a Canadian limited liability partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved.

[www.kpmg.com](http://www.kpmg.com)

[kpmg.com/socialmedia](http://kpmg.com/socialmedia)



© 2021 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. Printed in the U.S.A. NDPPS 530159

The KPMG name and logo are registered trademarks or trademarks of KPMG International. The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG LLP is the U.S. firm of the KPMG global organization of independent professional services firms providing Audit, Tax and Advisory services. The KPMG global organization operates in 147 countries and territories and has more than 219,000 people working in member firms around the world.

Each KPMG firm is a legally distinct and separate entity and describes itself as such. KPMG International Limited is a private English company limited by guarantee. KPMG International Limited and its related entities do not provide services to clients.